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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 92-114
)	
Robert B. Taylor)	File No. BRH-880926UJ
Jupiter, Florida)	
)	
For Renewal of Station WTRU(FM))	
)	
Jupiter Broadcasting, Corp.)	File No. BPH-890103MD
Jupiter, Florida)	
)	
For A Construction Permit)	

To: Administrative Law Judge
Walter C. Miller

**MASS MEDIA BUREAU'S OPPOSITION TO
MOTION FOR PARTIAL SUMMARY DECISION**

1. On May 22, 1992, Jupiter Broadcasting Corp. (JBC) filed a motion seeking adverse summary decision with respect to Robert B. Taylor's (Taylor) entitlement to a renewal expectancy under the standard comparative issue.¹ The Mass Media Bureau submits the following opposition to JBC's motion.

2. In support of its motion, JBC alleges that Taylor broadcast no issue oriented programming during the license period; that Taylor voluntarily removed his Jupiter, Florida stations from operation for significant periods of time; and, that Taylor misrepresented facts and lacked candor in obtaining silence authority for the stations. JBC claims that each one of

¹ In its June 9, 1992, Comments on Motion for Partial Summary Decision the Bureau noted that Taylor had not claimed a renewal expectancy and requested until June 23, 1992, to file its comments in the event Taylor made such a claim. On June 9, 1992, Taylor claimed a renewal expectancy.

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these "facts" warrants summary denial of Taylor's renewal expectancy in this proceeding. Accordingly, JBC claims that it has met the standard for summary decision since no material fact concerning renewal expectancy remains in this proceeding.

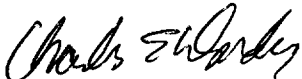
3. The Bureau disagrees. Initially, the Bureau submits that JBC's "facts" are not uncontroverted. Specifically, in his June 5, 1992, Objection to Motion for Summary Decision, Taylor provides information which, if demonstrated to be true, appears to belie JBC's alleged "facts." Thus, in light of the conflicting assertions, genuine issues of material fact remain for determination at the hearing. Accordingly, summary decision is not warranted. See Section 1.251 of the Commission's Rules; Telecorpus, Inc., 30 RR 2d 1641, 1644 (ALJ 1974); Big Country Radio, Inc., 50 FCC 2d 967 (Rev. Bd. 1975).

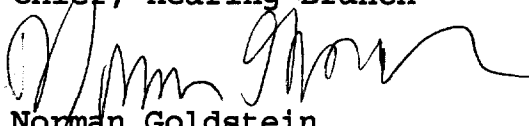
4. Moreover, as a renewal applicant, Taylor is entitled to make a prima facie showing with respect to its entitlement to a renewal expectancy. Thereafter, JBC will be able to present its rebuttal case. Cf. Cowles Broadcasting, Inc., 86 FCC 2d 993, aff'd sub nom. Central Florida Enterprises, Inc. v. FCC, 683 F.2d 503 (D.C. Cir. 1982), cert. denied, 103 S. Ct. 1174 (1983); Video 44, 5 FCC Rcd 6383 (1990), recon. denied, 6 FCC Rcd 4948 (1991), appeal pending sub nom. Video 44 v FCC, No. 91-1455 (D.C. Cir. 1992).

Video 44 v FCC, No. 91-1455 (D.C. Cir. 1992).

5. Based on the foregoing, the Bureau opposes JBC's motion.

Respectfully submitted,
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Chief, Mass Media Bureau


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June 12, 1992

CERTIFICATE OF SERVICE

Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau certifies that she has on this 12th day of June, 1992, sent by regular United States mail, U.S. Government frank copies of the foregoing "**Mass Media Bureau's Opposition to Motion for Partial Summary Decision**" to:

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